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DEPARTMENT OF COMMERCE

International Trade Administration

[A-552-801]

Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Preliminary Results of the Antidumping Duty Administrative Review and New Shipper Review; 2011-2012

AGENCY: Import Administration, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (the “Department”) is conducting the ninth administrative review and eleventh new shipper review (“NSR”) of the antidumping duty order on certain frozen fish fillets (“fish fillets”) from the Socialist Republic of Vietnam (“Vietnam”).¹ The Department has preliminarily determined that new shipper review respondent, Golden Quality Seafood Corporation (“Golden Quality”), as well as administrative review mandatory respondents, Hung Vuong Group (“HVG”)² and Vinh Hoan Corporation (“Vinh Hoan”),³ sold subject merchandise in the United States at prices below normal value (“NV”) during the period of review (“POR”) August 1, 2011, through July 31, 2012. If these preliminary results are adopted in the final results, the Department will instruct U.S. Customs and Border Protection (“CBP”) to assess antidumping duties on all appropriate entries of subject merchandise during the POR. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: [Insert date of publication in the *Federal Register*.]

¹ See Notice of Antidumping Duty Order: *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam*, 68 FR 47909 (August 12, 2003) (“Order”).

² The Hung Vuong Group includes: An Giang Fisheries Import and Export Joint Stock Company, Asia Pangasius Company Limited, Ben Tre Forestry and Aquaprodukt Import-Export JSC, Europe Joint Stock Company, Hung Vuong Joint Stock Company, Hung Vuong Mascato Company Limited, Hung Vuong – Vinh Long Co., Ltd., and Hung Vuong – Sa Dec Co., Ltd.

³ Vinh Hoan includes Vinh Hoan Corporation and its affiliates Van Duc Food Export Joint Company (“Van Duc”) and Van Duc Tien Giang (“VDTG”).

FOR FURTHER INFORMATION CONTACT: Julia Hancock (Vinh Hoan), Alex Montoro (Golden Quality) or Paul Walker (HVG), AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone 202-482-1394, 202-482-0238 or 202-482-0413, respectively.

SUPPLEMENTARY INFORMATION:

Scope of the Order

The product covered by the order is frozen fish fillets, including regular, shank, and strip fillets and portions thereof, whether or not breaded or marinated, of the species *Pangasius Bocourti*, *Pangasius Hypophthalmus* (also known as *Pangasius Pangasius*), and *Pangasius Micronemus*. The products are classifiable under tariff article codes 1604.19.4000, 1604.19.5000, 0305.59.4000, 0304.29.6033 (Frozen Fish Fillets of the species *Pangasius* including basa and tra) of the Harmonized Tariff Schedule of the United States (“HTSUS”).⁴ Although the HTSUS subheading is provided for convenience and Customs purposes, our written description of the scope of the order is dispositive.⁵

Methodology

The Department has conducted these reviews in accordance with sections 751(a)(1)(B) and 751(a)(2)(A)-(B) of the Tariff Act of 1930, as amended (the “Act”). Constructed export prices and export prices have been calculated in accordance with section 772 of the Act.

⁴ Until July 1, 2004, these products were classifiable under tariff article codes 0304.20.6030 (“Frozen Catfish Fillets”), 0304.20.6096 (“Frozen Fish Fillets, NESOI”), 0304.20.6043 (“Frozen Freshwater Fish Fillets”) and 0304.20.6057 (“Frozen Sole Fillets”) of the HTSUS. Until February 1, 2007, these products were classifiable under tariff article code 0304.20.6033 (“Frozen Fish Fillets of the species *Pangasius* including basa and tra”) of the HTSUS.

⁵ See “Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Decision Memorandum for the Preliminary Results of the 2011-2012 Antidumping Duty Administrative Review and New Shipper Review,” dated concurrently with this notice (“Preliminary Decision Memorandum”) and incorporated herein by reference, for a complete description of the Scope of the Order.

Because Vietnam is a non-market economy (“NME”) within the meaning of section 771(18) of the Act, NV has been calculated in accordance with section 773(c) of the Act. Specifically, the administrative review mandatory respondents’ and NSR respondent’s factors of production have been valued using surrogate values from Indonesia, which is economically comparable to Vietnam and is a significant producer of comparable merchandise.

For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum. The Preliminary Decision Memorandum is a public document and is on file electronically *via* Import Administration’s Antidumping and Countervailing Duty Centralized Electronic Service System (“IA ACCESS”). IA ACCESS is available to registered users at <http://iaaccess.trade.gov>, and is available to all parties in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the internet at <http://www.trade.gov/ia/>. The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Preliminary Results of Review

Regarding the administrative review, the Department preliminarily determines that the following weighted-average dumping margins exist for the period August 1, 2011, through July 31, 2012:

Exporter	Weighted-Average Margin (Dollars/Kilogram) ⁶
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⁶ In the third administrative review of this order, the Department determined that it would calculate per-unit assessment and cash deposit rates for all future reviews. *See Certain Frozen Fish Fillets from the Socialist Republic*

Exporter	Weighted-Average Margin (Dollars/Kilogram) ⁶
Vinh Hoan Corporation ⁷	0.42
Hung Vuong Group ⁸	2.15
An My Fish Joint Stock Company	0.99
Anvifish Joint Stock Company ⁹	0.99
Asia Commerce Fisheries Joint Stock Company	0.99
Binh An Seafood Joint Stock Company	0.99
Cadovimex II Seafood Import-Export and Processing Joint Stock Company	0.99
Cantho Import-Export Seafood Joint Stock Company	0.99
Cuu Long Fish Import-Export Corporation ¹⁰	0.99
Cuu Long Fish Joint Stock Company	0.99
East Sea Seafoods Limited Liability Company ¹¹	0.99
Green Farms Seafood Joint Stock Company	0.99
Hiep Thanh Seafood Joint Stock Company	0.99
Hoa Phat Seafood Import-Export and processing JSC	0.99
International Development & Investment Corporation	0.99
NTSF Seafoods Joint Stock Company	0.99
QVD Food Company Ltd. ¹²	0.99

of Vietnam: *Final Results of Antidumping Duty Administrative Review and Partial Rescission*, 73 FR 15479 (March 24, 2008).

⁷ This rate is applicable to the Vinh Hoan Group which includes: Vinh Hoan, Van Duc, and VDTG. In the sixth administrative review of this order, the Department found Vinh Hoan, Van Duc, and VDTG to be a single entity and, because there have been no changes to this determination since that administrative review, we continue to find these companies to be part of a single entity. Therefore, we will assign this rate to the companies in the single entity. *See Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Notice of Preliminary Results and Partial Rescission of the Sixth Antidumping Duty Administrative Review and Sixth New Shipper Review*, 75 FR 56061 (September 15, 2010).

⁸ This rate is applicable to the Hung Vuong Group which includes: An Giang Fisheries Import and Export Joint Stock Company, Asia Pangasius Company Limited, Europe Joint Stock Company, Hung Vuong Joint Stock Company, Hung Vuong Mascato Company Limited, Hung Vuong – Vinh Long Co., Ltd., and Hung Vuong – Sa Dec Co., Ltd.

⁹ Includes the trade name Anvifish Co., Ltd.

¹⁰ Includes the trade name CL Panga Fish.

¹¹ Includes the trade names East Sea Seafoods LLC and ESS.

Exporter	Weighted-Average Margin (Dollars/Kilogram) ⁶
Saigon-Mekong Fishery Co., Ltd.	0.99
Seafood Joint Stock Company No.4 Branch Dongtam Fisheries Processing Company	0.99
Southern Fishery Industries Company Ltd.	0.99
Sunrise Corporation	0.99
Thien Ma Seafood Co., Ltd.	0.99
To Chau Joint Stock Company	0.99
Viet Phu Food & Fish Corporation	0.99
Vinh Quang Fisheries Corporation	0.99
Vietnam-Wide Rate ¹³	2.11

Regarding the NSR, the Department preliminarily determines that the following weighted-average dumping margin exists for the period August 1, 2011, through July 31, 2012:

Manufacturer	Exporter	Weighted-Average Margin (Dollars/Kilogram)
Golden Quality Seafood Corporation	Golden Quality Seafood Corporation	0.24

¹² This rate is also applicable to QVD Dong Thap Food Co., Ltd and Thuan Hung Co., Ltd. (“THUFICO”). In the second review of this order, the Department found QVD, QVD Dong Thap Food Co., Ltd. and THUFICO to be a single entity and, because there have been no changes to this determination since that administrative review, we continue to find these companies to be part of a single entity. Therefore, we will assign this rate to the companies in the single entity. *See Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Preliminary Results of Antidumping Duty Administrative Review*, 71 FR 53387 (September 11, 2006).

¹³ The Vietnam-wide rate includes the following companies which are under review, but which did not submit a separate rate application or certification: East Sea Seafood Co., Ltd., East Sea Seafoods Joint Venture Co., Ltd., GODACO Seafood Joint Stock Company, Hung Vuong Seafood Joint Stock Company, Nam Viet Company Limited, Quang Minh Seafood Co., Ltd. and Vinh Hoan Company Ltd.

Disclosure, Public Comment & Opportunity to Request a Hearing

The Department will disclose the calculations used in our analysis to parties in these reviews within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Interested parties may submit case briefs within 30 days after the date of publication of these preliminary results of reviews.¹⁴ Rebuttals to case briefs, which must be limited to issues raised in the case briefs, must be filed within five days after the time limit for filing case briefs.¹⁵ Parties who submit arguments are requested to submit with the argument (a) a statement of the issue, (b) a brief summary of the argument, and (c) a table of authorities.¹⁶ Parties submitting briefs should do so pursuant to the Department's electronic filing system, IA ACCESS.

Any interested party may request a hearing within 30 days of publication of this notice.¹⁷ Hearing requests should contain the following information: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If a request for a hearing is made, parties will be notified of the time and date for the hearing to be held at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230.¹⁸

The Department intends to issue the final results of this administrative review and this NSR, which will include the results of our analysis of all issues raised in the case briefs, within 120 days of publication of these preliminary results in the *Federal Register*, pursuant to section 751(a)(3)(A) of the Act.

Deadline for Submission of Publicly Available Surrogate Value Information

¹⁴ See 19 CFR 351.309(c)(1)(ii).

¹⁵ See 19 CFR 351.309(d)(1)-(2).

¹⁶ See 19 CFR 351.309(c)(2), (d)(2).

¹⁷ See 19 CFR 351.310(c).

¹⁸ See 19 CFR 351.310(d).

In accordance with 19 CFR 351.301(c)(3)(ii), the deadline for submission of publicly available information to value factors of production under 19 CFR 351.408(c) is 20 days after the date of publication of the preliminary results. In accordance with 19 CFR 351.301(c)(1), if an interested party submits factual information less than ten days before or on the applicable deadline for submission of such factual information, an interested party may submit factual information to rebut, clarify, or correct the factual information no later than ten days after such factual information is served on the interested party. However, the Department generally will not accept in the rebuttal submission additional or alternative surrogate value information not previously on the record, if the deadline for submission of surrogate value information has passed.¹⁹ Furthermore, the Department generally will not accept business proprietary information in either the surrogate value submissions or the rebuttals thereto, as the regulation regarding the submission of surrogate values allows only for the submission of publicly available information.²⁰ Finally, for each piece of factual information submitted with surrogate value rebuttal comments, the interested party must provide a written explanation of what information that is already on the record of the ongoing proceeding that the factual information is rebutting, clarifying, or correcting.

Assessment Rates

Upon issuance of the final results, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by these review.²¹ The Department intends to issue assessment instructions to CBP 15 days after the publication date of the final results of these reviews.

¹⁹ See *Glycine from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Rescission, in Part*, 72 FR 58809 (October 17, 2007), and accompanying Issues and Decision Memorandum at Comment 2.

²⁰ See 19 CFR 351.301(c)(3).

²¹ See 19 CFR 351.212(b).

For any individually examined respondent whose weighted average dumping margin is above *de minimis* (*i.e.*, 0.50 percent) in the final results of these reviews, the Department will calculate importer-specific assessment rates on the basis of the ratio of the total amount of dumping calculated for the importer's examined sales to the total entered value of sales, in accordance with 19 CFR 351.212(b)(1). Where an importer- (or customer-) specific *ad valorem* rate is greater than *de minimis*, the Department will instruct CBP to collect the appropriate duties at the time of liquidation.²² Where either a respondent's weighted average dumping margin is zero or *de minimis*, or an importer- (or customer-) specific *ad valorem* is zero or *de minimis*, the Department will instruct CBP to liquidate appropriate entries without regard to antidumping duties.²³ For the respondents that were not selected for individual examination in this administrative review and that qualified for a separate rate, the assessment rate will be based on the average of the mandatory respondents.²⁴ We intend to instruct CBP to liquidate entries containing subject merchandise exported by the Vietnam-wide entity at the Vietnam-wide rate.

The Department recently announced a refinement to its assessment practice in NME cases. Pursuant to this refinement in practice, for entries that were not reported in the U.S. sales databases submitted by companies individually examined during the administrative review, the Department will instruct CBP to liquidate such entries at the Vietnam-wide rate. Additionally, if the Department determines that an exporter had no shipments of the subject merchandise, any suspended entries that entered under that exporter's case number (*i.e.*, at that exporter's rate) will be liquidated at the Vietnam-wide rate.²⁵

Cash Deposit Requirements

²² See 19 CFR 351.212(b)(1).

²³ See 19 CFR 351.106(c)(2).

²⁴ See Preliminary Decision Memorandum.

²⁵ For a full discussion of this practice, see *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011).

The following cash deposit requirements will be effective upon publication of the final results of these reviews for shipments of the subject merchandise from Vietnam entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by sections 751(a)(2)(C) of the Act: (1) For the companies listed above that have a separate rate, the cash deposit rate will be that established in the final results of these reviews (except, if the rate is zero or *de minimis*, then zero cash deposit will be required); (2) for previously investigated or reviewed Vietnam and non-Vietnam exporters not listed above that received a separate rate in a prior segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific rate; (3) for all Vietnam exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be that for the Vietnam - wide entity; and (4) for all non-Vietnam exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the Vietnam exporter that supplied that non-Vietnam exporter.

With respect to Golden Quality, the new shipper respondent, the Department has established a combination cash deposit rate for this company consistent with its practice as follows: (1) for subject merchandise produced and exported by Golden Quality, the cash deposit rate will be the rate established for Golden Quality in the final results of the NSR; (2) for subject merchandise exported by Golden Quality, but not produced by Golden Quality, the cash deposit rate will be the rate for the Vietnam-wide entity; and (3) for subject merchandise produced by Golden Quality but not exported by Golden Quality, the cash deposit rate will be the rate applicable to the exporter.

These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during the POR. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This preliminary determination is issued and published in accordance with sections 751(a)(1), 751(a)(2)(B), and 777(i)(1) of the Act.

Paul Piquado
Assistant Secretary
for Import Administration

September 3, 2013.
Date

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum:

1. Case History
2. Scope of the Order
3. Preliminary Determination of No Shipments
4. *Bona Fides* Analysis
5. Non-Market Economy Country Status
6. Collapsing
7. Separate Rates
8. Separate Rate Calculation for Companies Not Individually Examined
9. Vietnam-Wide Entity
10. Surrogate Country
11. Date of Sale
12. Determination of Comparison Method
13. Results of Differential Pricing Analysis
14. Comparisons to Normal Value
15. U.S. Price
16. Normal Value
17. Factor Valuations
18. Currency Conversion

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